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8 *Attorney for Plaintiffs*

UNITED STATES DISTRICT COURT DISTRICT OF ARIZONA	
8 Anna Christine Lewis and Bradley Lewis, as Personal Representative of The Estate of Bradley Alexander Lewis, Anna Christine Lewis, Bradley Lewis, Helen Stricklen, and Ralph Rust Stricklen, Plaintiffs, Vs, Chris Nanos, individually and in his official capacity as Sheriff of Pima County, Arizona, Pima County Sheriff Deputy Gilbert Caudiillo, Individually and in his official capacity as an employee of the County of Pima, Arizona, and his official capacity as Sheriff Deputy of the Pima County Sheriff's Department, Pima County Sheriff Deputy Michael Moseley, Individually and in his official capacity as an employee of the County of Pima, Arizona, and his official capacity as Sheriff Deputy of the Pima County Sheriff's Office, Pima County.	9 Case No.: CV 21-00557-TUC-RM 10 PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT 11 (ORAL ARGUMENT REQUESTED)
12 Defendants.	13

23 Plaintiffs, Anna Christine Lewis and Bradley Lewis, as Personal Representatives of
24 the Estate of Bradley Alexander Lewis, Anna Christine Lewis, Bradley Lewis, Helen
25 Stricklen, and Ralph Rust Stricklen, by and through counsel undersigned and pursuant
26 to Rule 56(a), F.R.Civ.P, hereby responds to Defendants' Motion for Summary
27 Judgment

INTRODUCTION

On January 20, 2021, Sheriff Deputy Gilbert Caudillo shot and killed Mr. Bradley Alexander Lewis, a young man who had just celebrated his nineteenth birthday approximately two weeks prior to his untimely death. The Pima County Sheriff's Department overzealously attempted to contact Bradley Alexander Lewis to question him when the operation escalated from an investigatory contact to a deadly confrontation. While Defendant Moseley was in charge of the operation, both Caudillo and Moseley created the circumstances that lead to the death of Mr. Bradley Alexander Lewis. Deputy Caudillo fired at Mr. Lewis when his hand was already raised where the officers could visibly see it. Furthermore, physical evidence illustrates that Mr. Lewis was falling, diving, or collapsing when Caudillo fired shots. Neighbor eye witnesses corroborate the physical evidence on surveillance video that Mr. Lewis was shot as he was getting down on the ground. Though Mr. Bradley Alexander Lewis appeared to be of no threat considering he was unarmed, exited the vehicle with his hands visible, and was getting on the ground, Gilbert Caudillo immediately jumped out of his vehicle and opened fire by firing three shots at Mr. Lewis. Gilbert Caudillo claims that Mr. Bradley Lewis exited his vehicle with a "black mass" in his hand as he ran full speed towards Caudillo. Physical evidence does not support Defendant's rapid approach/chest-forward theory. Considering Gilbert Caudillo was only a few feet away from Mr. Bradley Alexander Lewis and his hands were visible and well lighted from the headlights of the patrol vehicles surrounding him throughout the entire altercation, it is implausible that a key fob—or "black mass"— would have been perceived as a weapon given its size, shape, and color. Not once during the altercation that ensued on January 20, 2021 did

1 Mr. Lewis display he was armed. Furthermore, Deputy Gilbert Caudillo continuously
2 reaffirms that he did not see what he perceived as a weapon until Mr. Lewis was able to
3 pass through the wedge between Mr. Lewis' Toyota Tacoma and Ralph Stricklen's F-
4 150. Physical evidence confirms Mr. Lewis never made it through the wedge. Michael
5 Moseley was already out of his vehicle with his weapon drawn when Mr. Lewis exited
6 his vehicle and he chose not to shoot. It is reasonable to conclude that Michael
7 Moseley did not fire his weapon because Mr. Lewis did not pose a lethal threat and
8 there was not sufficient justification to utilize deadly force. It is reasonable to conclude
9 that any threat was extinguished the second Mr. Bradley Alexander Lewis vacated his
10 vehicle. Yet, this is when Deputy Gilbert Caudillo chose to expel deadly force against
11 Mr. Bradley Alexander Lewis. While it is alleged that Mr. Bradley Alexander Lewis
12 rammed his vehicle into the patrol vehicles, physical evidence does not corroborate
13 Defendants' claims. Neither Gilbert Caudillo nor Michael Moseley described aggressive
14 or threatening behavior exhibited by Alex, nor was it indicated that he reached for a
15 weapon. Mr. Bradley Alexander Lewis posed no imminent threat of deadly force, yet
16 when Gilbert Caudillo used deadly force and killed Alex, he created the deadly
17 circumstances.

21 **PLAINTIFFS' INDEPENDENT MEDICAL EXAMINER, DR. MICHAEL ILIESCU:**

22 Please see Dr. Michael Iliescu's Independent Report of Autopsy and Dr. Iliescu's
23 Declaration.

24 **PLAINTIFFS' USE OF FORCE EXPERT, WILLIAM HARMENING:**

25 Please see Mr. Harmening's Initial Report, Rebuttal Report and Declaration.
26

1 **PLAINTIFFS' BALLISTICS EXPERT, LUCIAN HAAG:**

2 Please see Mr. Haag's Initial Report, Rebuttal Report, and Declaration.

3 **PLAINTIFFS' EXPERT DR. JOSEPH PELES:**

5 Please see Dr. Peles' Initial Report, Rebuttal Report, and Declaration.

7 **COUNT I: USE OF EXCESSIVE FORCE 4TH AMENDMENT CLAIM:**

8 The use of deadly force on Decedent, Bradley Alexander Lewis, by Defendant
9 Gilbert Caudillo was unreasonable under the totality of the circumstances.
10 “Apprehension by deadly force is a seizure subject to the Fourth Amendment’s
11 reasonableness requirement.” Wilkinson v. Torres, 610 F. 3d.546, 550 (2010) (citing
12 Graham v. Connor, 490 U.S. 386, 395, 109 S.Ct. 1865, 104 L.Ed.2d 443 (1989)). 42
13 U.S.C. § 1983; U.S. Constitution 4th Amendment; *Graham v. Connor*, 490 U.S. 386
14 (1989).

16 Therefore, the “determination whether the force used to effect an arrest was
17 reasonable under the Fourth Amendment should only be taken from the jury in rare
18 cases.” Headwaters Forest Def. v. County of Humboldt, 240 F.3d 1185, 1205-06 (9th
19 Circ. 1997). The reasonableness of force is “ordinarily a question of fact for a jury.”
20 Liston v. County of Riverside, 120 F.3d 965, 976 n. 10 (9th Circ. 1997). “Whether a
21 particular use of force was reasonable is rarely determinable as a matter of law.”
22 Chew v. Gates, 27 F.3d 1432, 1443 (9th Cir. 1994).

25 *Graham v. Connor* provides an objective reasonableness test under the Fourth
26 Amendment in reference to four key factors: (1) The severity of the crime involved; (2)
27 The immediate threat to the safety of officers or others; (3) The suspect actively
28 resisting seizure; & (4) Rapidly evolving circumstances. The objective

1 reasonableness test is used to determine how a similarly trained and experienced
2 officer would response in a similar fashion given the facts known at the time.
3 Defendants only mention Caudillo in their discussion of how the criteria are met.
4 Under the totality of circumstances, BOTH Caudillo and Moseley were faced with a
5 test of "reasonableness" when making a decision on the amount of force necessary in
6 this situation and whether or not Mr. Lewis posed an immediate deadly threat to the
7 safety of themselves and OTHERS. Under these standards, Moseley is then
8 considered a similarly trained and experienced officer that could be compared to
9 Caudillo. Moseley, faced with the same objective reasonableness test, was already
10 out of his patrol car, was in a better position to shoot with his gun already drawn, and
11 he chose not to. It can then be ascertained that Moseley, when faced with a test of
12 "reasonableness" on the amount of force necessary, concluded that Alex did not pose
13 an immediate deadly threat to Caudillo. *Graham v. Connor* also establishes that a
14 particular use of force must be judged from the perspective of a reasonable officer on
15 the scene, rather than with the 20/20 vision of hindsight. Defendants only discuss the
16 "reasonableness" of Caudillo and fail to address that there was another reasonable
17 officer on the scene faced with similar circumstances who chose NOT to shoot.

21 At the summary judgment stage, once the Court has 'determined the relevant set
22 of facts and drawn all inferences in favor of the nonmoving party to the extent
23 supportable by the record,' the question of whether an officer's actions were
24 objectively reasonable ... is 'a pure question of law.' " *Krause v. Cnty. of Mohave*, No.
25 CV-17-08185-PCT-SMB, 2020 WL 2541728, *5 (D. Ariz. May 18, 2020) (quoting *Scott*
26 *v. Harris*, 550 U.S. 372, 281 n.8, 127 S. Ct. 1769, 167 L. Ed. 2s 668 (2007)). See also
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1 *Whitaker v. Pima Cnty*, 640 F. Supp. 2d 1095, 1102-03 (D. Ariz. 2009), where the
2 essential facts are undisputed, the reasonableness of the officer's actions is properly
3 determined by the Court, citing *Sinaloa Lake Owners Ass'n v. City of Simi Valley*, 70
4 F. 3d. 1095, 1099 (9th Cir. 1995). *Cutler v. Nanos*, 546 F. Supp. 3d 856 (D. Ariz.
5 2021.) For the case at bar, the essential facts are disputed and the reasonableness
6 of the officer's actions are not properly determined by the Court at the summary
7 judgment stage. Pointing to *Romo v. Largen*, 723 F. 3d 670 (6th Cir. 2013), the
8 dispute barring summary judgment was a factual dispute and the *Romo* court was
9 properly bound by the district court's finding that competing factual narratives existed
10 and that it could not, at summary judgment, choose between them.

13 Count 1 must proceed to trial given there is a genuine issue of material fact as to
14 whether Defendants' actions were objectively reasonable.

15 Defendants are the only surviving eye witnesses. Plaintiffs urge this Court to
16 ensure that the Defendants do not take advantage of the fact that the witness most
17 likely to contradict their story — the person shot dead — is unable to testify. All the
18 evidence in the record proffered by the Plaintiff in Plaintiffs' Separate Statement of
19 Facts shows that the Defendants' story is internally inconsistent and inconsistent with
20 other known facts. *Hopkins*, 958 F. 2d. at 885-88; *Ting v. United States*, 927 F. 2d.
21 1504; 1510-11 (9th Cir. 1991). The Court may not simply accept what may be a self-
22 serving account by the police officers. It must also look at the circumstantial evidence
23 that, if believed, would tend to discredit the police officer's story, and consider whether
24 this evidence could convince a rational factfinder that the officer acted unreasonably.
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1 Defendants cite *Lemmon v. City of Akron, Ohio*. In *Lemmon v. City of Akron, Ohio*, the deceased told law enforcement that “you’re going to have to kill me” and
2 that “you’re going to have to shoot me.” Shots were fired after he placed his hand in
3 his waistband despite being unarmed, i.e., deliberate intent to get shot by law
4 enforcement. With the case at bar, Mr. Lewis’ intent was not suicide by cop. Mr.
5 Lewis pleads with Moseley to save him during the final moments of his life. Moseley
6 states, “So, uh, he starts saying that he’s gonna die and he wants me to help him and
7 not to, uh. He’s basically like begging me not to let him die.” (pg. 9) (**PSSOF Exhibit**
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9 **22)**

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11 **COUNT II: SUBSTANTIVE DUE PROCESS 14TH AMENDMENT CLAIM:**

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13 The conduct of the Defendants that resulted in the death of Decedent Bradley
14 Alexander Lewis “shocked the conscience” and evidences “deliberate indifference”
15 and/or “purpose to harm”. 42 U.S.C. § 1983; U.S. Constitution 14th Amendment;
16 *Wilkinson v. Torres*, 610 F.3d 546 (9th Cir., 2010).

17 When shooting Alex while he was unarmed and not posing any risk to any of the
18 officers, Defendants acted in an objectively unreasonable manner and/or deliberate
19 indifference to a significant risk of harm to Alex. The Defendants acted under color of
20 law. The Defendants violated Alex’s right to substantive due process. In the Caruther’s
21 zoomed in surveillance footage, Traci Caruther can be heard stating the following:
22 “They shot the kid as he was getting on the ground.” (**PSSOF Exhibit 23**) Mrs.
23 Caruther’s statements reflect a suspect abiding by law enforcement and not behaving in
24 a threatening manner towards law enforcement or the public. Mrs. Caruther’s
25 statements also corroborate Defendants’ expert Matt Noedel and Plaintiffs’ expert Luke
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1 Haag that Lewis was falling, collapsing, or diving when shots are sustained.
2 Defendants claim that the “deliberate indifference” test does not apply because
3 deliberation is not possible if the officers encounter fast paced circumstance presenting
4 competing public safety obligations. Defendants have continuously reaffirmed that
5 Lewis was “flying” towards Caudillo and moving his body as fast as humanly possible.
6 During Deputy Justin Berry’s Deposition, he states the following: “Q. Just for the record,
7 you open the driver door. A. Right. Correct.” (**PSSOF Exhibit 24**) Given that Lewis took
8 the time to shut his door, Plaintiffs are highly critical that Lewis was “flying” towards
9 Deputy Caudillo as he describes. Plaintiffs expert Dr. Joseph Peles also opined in his
10 rebuttal accident reconstruction analysis that Defendants rapid approach/chest forward
11 theory could not occur, nor could the event occur in fractions of a second as Defendants
12 claim. Despite Caudillo stating upon numerous occasions that he did not make the
13 decision to shoot until Alex cleared the gap, the blood pool at the scene confirms that
14 Alex never cleared the gap. Defense Expert Matt Noedel and Plaintiff Expert Luke
15 Haag both agree that Alex never cleared the gap. The physical evidence does not
16 support the Defendants statements, nor does the physical evidence reflect that the
17 Defendants behaved according to legitimate law enforcement objectives. The
18 Defendants deliberate indifference and purpose to harm Alex shocks the conscience.
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20 Count II must proceed to trial given there is a genuine issue of material fact as to
21 whether Defendants’ actions reflect legitimate law enforcement objectives.
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23 **COUNT III: WRONGFUL DEATH CLAIM**

24 The Defendants’ conduct related to the attempt to capture and arrest and including
25 the shooting of Decedent Lewis by Gilberto Caudillo was wrongful inasmuch as that
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1 conduct was negligent and/or grossly negligent and/or intentionally wrongful and/or
2 objectively unreasonable. (ARS §§ 12-611, 612.) The Defendants owed a duty to act
3 reasonably in their use of force. They had a duty to conform to an objectively
4 reasonable standard of conduct as to the circumstances for which use of force was
5 warranted. The Defendants had a duty to not deprive Alex of his inalienable rights to
6 enjoy and defend his life. The Defendants breached those duties when Alex was shot
7 and killed while unarmed and posing no risk to any of the officers. They further
8 breached those duties when they failed to procure adequate medical attention within a
9 reasonable time. They continued to hold Alex down to handcuff him instead of getting
10 prompt medical attention when he was unarmed, not a danger to officers or the public,
11 and experiencing agonal breathing. They breached those duties when they searched
12 the scene looking for a nonexistent firearm before providing first aid when it was clear
13 Alex was in distress. So egregious were their actions, that even paramedics
14 dispatched to the scene commented on the attending officers' complete disinterest in
15 providing needed details for trauma physicians who might need the information to
16 possibly help save Alex's life. When one emergency medical technician asked what
17 had occurred, he was told that Alex was a very bad person. James Bailey was one of
18 the first responders with the Northwest Fire District. He stated the following during his
19 Deposition: "A. Well, I was trying to relay in my answer that I was trying to figure out
20 everything or how I was gonna treat this patient. And I remember asking some
21 questions and not getting much information back." **(PSSOF Exhibit 25)**

22
23 The County of Pima, Pima County Sheriff's Department, and Pima County Sheriff
24 Chris Nanos are responsible for the actions of Pima County Sheriff Deputy Gilbert
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Caudillo and Pima County Sheriff's Department Sergeant Michael Moseley under respondeat superior. The Defendants breach of the duty they owed to Plaintiffs caused injuries and damages to them, including Alex's wrongful death and the loss of adult consortium for Alex's mother, Anita Lewis, Alex's father, Bradley Lewis, Alex's maternal grandmother, Helen Stricklen, Alex's maternal grandfather, Rusty Stricklen, Alex's paternal grandmother, Jerlene Jones, and Alex's paternal grandfather, Preston Lewis. See A.R.S. S 12-611 et. seq.

Count III must proceed to trial given there is a genuine issue of material fact as to whether Defendants use of deadly force was objectively reasonable.

COUNT IV: LOSS OF CONSORTIUM CLAIM

The Defendants have liability through one or more of the legal theories set forth in Plaintiffs' Complaint for the death of Decedent Lewis and that said liability entitles them to damages for the loss of companionship/association of Decedent Lewis. *Pierce v. Casas Adobes Baptist Church*, 62 Ariz. 269, 272 (1989).

Count IV must proceed to trial given there is a genuine issue of material fact as to whether Defendants use of deadly force was objectively reasonable.

COUNT V: DAMAGE TO PROPERTY CLAIM

The Defendants negligently, and/or grossly negligently, and/or objectively unreasonably, and/or intentionally, and without legal excuse, damaged Plaintiffs Ralph Strickeln's and 2019 Ford F-150 pick-up truck. Plaintiffs sustained approximately \$4,538.18 in damages. (**PSSOF Exhibit 31**)

1 Count V must proceed to trial given there is a genuine issue of material fact as to
2 whether Deputy Caudillo firing the bullets was objectively reasonable, justified, or
3 necessary.
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5 **QUALIFIED IMMUNITY:**

6 Defendants claim that immunity and/or qualified immunity for the acts which led to
7 Alex's death apply. Plaintiffs contend that such acts were outside the scope of their
8 authority because Defendants violated Alex's constitutional rights and their
9 misconduct was clearly established at the time. *Pearson v. Callahan*, 555 U.S. 223,
10 231 (2009).

12 Defendants cite *Waid v. County of Lyons* when alleging the Defendants are
13 entitled to qualified immunity. Unlike the case at bar, in *Waid v. County of Lyons*,
14 Anderson was in a narrow hall and rapidly approaching the officers, with no barrier
15 between them. It was cited in *Waid v. County of Lyons* that he could have accessed
16 the officers' weapons at any time or otherwise harmed them. Mr. Lewis was
17 obstructed by the narrow gap between the vehicles and there was a barrier between
18 him and Caudillo. Furthermore, Plaintiffs' experts have shown that the physical
19 evidence discredits the Defendants' rapid approach/chest forward theory. Plaintiffs
20 disagree with Defendants stance that *Waid v. Lyons* is factually similar to the case at
21 bar.
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25 For the case at bar, there is a battle of experts on a material issue of fact, which
26 cannot be decided at summary judgment as a matter of law. See *Act Up!/Portland v.*
27 *Bagley*, 988 F. 2d. 868, 878 (9th Cir. 1993). In the above-referenced case, the Court
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1 concluded that, "If a genuine issue of fact exists preventing a determination of
2 qualified immunity at summary judgment, the case must proceed to trial."
3

4 **PIMA COUNTY AND SHERIFF NANOS:**
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6 Pima County and Sheriff Nanos established policies, customs, practices,
7 decisions, usages, etc., that unconstitutionally deprived Mr. Lewis of his rights. Pima
8 County and Sheriff Nanos failed to properly train, manage, control and equip Deputy
9 Caudillo and Sgt. Moseley. Pima County and Sheriff Nanos refused to assess
10 Deputy Caudillo's wrongful conduct by not conducting a proper investigation, which
11 demonstrates deliberate indifference of a constitutional injury. Plaintiffs and Laura
12 Conover with the Pima County Attorney's Office (PCAO) both learned in March that
13 criminal charges had been declined by this Office, not from proper channels, but
14 through the media. In fact, officers involved in the January 20th, 2021 incident were all
15 released back into the force only a few days later and before notifying Plaintiffs and
16 the PCAO that the officers were cleared of any wrongdoing. Because of Pima County
17 Sheriff's Department failure to investigate properly, Laura Conover decided to
18 personally start anew the entire investigation, along with PCAO Chief Deputy Tamara
19 Mulembo and Chief Criminal Deputy Dan South. Rather than go through the proper
20 channels, Pima County and Sheriff Nanos slandered Mr. Lewis in the press, deprived
21 Plaintiffs of a proper investigation before conducting a press release, and notified the
22 press before notifying Mr. Lewis' family of their decision. Had Pima County and
23 Sheriff Nanos conducted a proper investigation, the physical evidence shows that the
24 event did not unfold the way it was described by Caudillo and Moseley and how
25 PCSD reported it to the press. To this day, Pima County Sheriff's Department,
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1 Deputy Caudillo, and Sergeant Moseley still maintain that Bradley Alexander Lewis
2 rammed a patrol vehicle and that they responded with lethal force because of this
3 supposed ramming. Given Plaintiffs were burdened with conducting an independent
4 investigation because Pima County and Sheriff Nanos did not conduct a proper
5 investigation, it has become exceedingly clearer that Defendants' investigation
6 amounted to nothing more than engaging in defensive tactics to blur their wrongful
7 conduct. Pima County and Sheriff Nanos ignored Plaintiffs' Preservation of Evidence
8 Letter when they compromised data from the patrol vehicles that would have further
9 reaffirmed that Mr. Lewis did not ram the police officers. Rather, the police officers
10 rammed Mr. Lewis. Furthermore, Pima County's non-DPS Crime Laboratory mis-
11 characterized small mineral particles loosely adhering to the sleeve of Mr. Lewis shirt
12 as unconsumed gun powder particles. Both Defendants' and Plaintiff's ballistic and
13 criminology experts agree that their findings are at odds with Pima County Sheriff's
14 Department non-DPS Crime Laboratory report, which is monumental because this
15 reflects that Mr. Lewis was not as close to Caudillo as he claims when he shot and
16 killed Mr. Lewis. To this date, Pima County and Sheriff Nanos have not investigated
17 whether their rapid approach/chest forward theory is corroborated with the physical
18 evidence. In fact, it does not. Pima County and Sheriff Nanos have a duty to ensure
19 proper oversight of established policies and procedures and a duty to conduct a
20 proper investigation of an in-custody death. Pima County and Sheriff Nanos fail on
21 both counts and their wrongdoing demonstrates a deliberate indifference of the
22 Plaintiffs' Constitutional rights. It should be further noted that Defendants designate
23 several pages in their Motion for Summary Judgment discussing how Mr. Lewis is a
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1 "bad guy," which is not justification of depriving Mr. Lewis of his Constitutional rights.
2 Plaintiffs urge the Court to solely evaluate the incident that occurred on January 20,
3 2021. Defendants shot an unarmed nineteen year old that was in the process of
4 giving himself up when he was wrongfully murdered by the Defendants. Pima County
5 and Sheriff Nanos condoned the Defendants unconstitutional use of excessive force
6 and Pima County and Sheriff Nanos' policy helped aid and abet the constitutional
7 wrong in proxy of their deliberate indifference. Pima County and Sheriff Nanos turned
8 a blind eye to Mr. Lewis' constitutional deprivation. Pima County's and Sheriff Nanos'
9 systematic and gross deficiencies are evidenced by their inaction to properly
10 supervise its officials and employees in proxy of their failure to reprimand. *Orozco v.*
11 *Dart*, 64 F.4th 806, 824 (7th Cir. 2023). While Defendants claim that Sheriff Nanos was
12 not personally involved in the incident that occurred on January 20, 2021, Section
13 1983 liability may be imposed on a governmental authority when the final decision-
14 making authority is directly responsible for the deprivation. *Gernetzke v. Kenosha*
15 *Unified School District No. 1*, 274 F.3d. 464 (7th Cir. 2001.) Plaintiffs *Moneil* claim
16 must proceed to trial given there is a genuine issue of material fact as to whether
17 Defendants deprived Mr. Lewis of a federal right, whether governmental action can be
18 traced to the deprivation, whether policy and custom demonstrate fault, i.e. deliberate
19 indifference, and whether municipal action was the moving force behind the federal
20 violation. *Dean v. Wexford Health Service, Inc.*, 18 F.4th 214, 235 (7th Cir. 2021).

21 Plaintiffs would like to note that the case at bar is not a singular incident of
22 deliberate indifference in which Sheriff Nanos has failed to properly investigate and
23 failed to discipline employees of Pima County Sheriff's Department. On October 23,
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1 2023, Jose Montreal Jr. was arrested for two felony shoplifting incidents. Nanos
2 convened a leadership panel and did not follow the unanimous decision by his
3 appointed commanders to terminate Jose Montreal Jr. Instead, Nanos disciplined
4 Jose Montreal Jr. with a brief suspension with pay and reinstated him. On the news,
5 Nanos further stated, "It wasn't the first time he's (Sheriff Nanos) protected his staff
6 from serious consequences. We've had people (deputies) arrested, convicted of
7 DUIs, shoplifting, and domestic violence, and they still work with us." Jose Montreal's
8 case demonstrates Nanos' disregard for procedure and lack of discipline of his
9 deputies. Nanos created an entity and did not carry out its resolution. **(PSSOF**

Exhibit 29) Nanos has established a pattern of behavior within PCSD where deputies
receive no serious repercussions for their actions. PCSD Sergeant Ricky Garcia is
another example of Nanos' disregard for procedure, lack of discipline of his deputies,
and an established pattern of behavior in which PCSD deputies receive little to no
repercussions for their actions. Even more glaringly, Sergeant Ricky Garcia's case,
similar to the case at bar, illustrates that Nanos interfered with the investigation as
well. A fellow PCSD deputy was sexually assaulted by Sergeant Ricky Garcia at a
Christmas party in which her lieutenant, captain, and chief were all present and aware
that she was being actively sexually assaulted by her Sergeant, Ricky Garcia, and
refused to intervene for eighty (80) minutes. PCDO claims Nanos held up the internal
investigation as to how the supervisors and commanders initially handled the case.
Brinkman, Vice President of PCDO, said Nanos had six months before the claim was
filed against the Sheriff's Department to make a decision on what was going on and
they didn't do it. **(PSSOF Exhibit 27)** The Pima County Board of Supervisors are

1 pushing ahead for a review of Nanos' handling of the sexual assault case.

2 Supervisors voted on October 11, 2023 to seek outside inquiry into how Nanos
3 conducted the internal review of his agencies handling of the alleged sexual assault of
4 a deputy by a colleague. In a four (4) to one (1) vote, followed by a closed-door
5 discussion with a county prosecutor, concerns were raised pertaining to the lack of
6 oversight that the Pima County Board of Supervisors have over Nanos and they
7 ultimately voted to investigate Sheriff Nanos. **(PSSOF Exhibit 28)** In retaliation of the
8 Board's decision, Nanos threatened to pull security from the meetings. **(PSSOF**

9 **Exhibit 26)** Furthermore, Pima County Sheriff Chris Nanos illegally withheld public
10 information four times during his first five months alone on the job according to several
11 experts in Arizona's public-records law. The experts ruled unanimously that Nanos
12 has ignored decades of Arizona Supreme Court rulings to repeatedly block the
13 release of public records. **(PSSOF Exhibit 30)** While Nanos has publicly pledged his
14 commitment to openness and transparency, the sheriff has instead repeatedly broke
15 the law. With the case at bar and several other cases, there is a clear pattern of
16 obstruction. David Cullier, one of four experts who reviewed Nanos' public-records
17 decisions states, "These are not gray areas where the law is unclear. These cases
18 are black and white for anyone who knows how to read." Since taking office, Sheriff
19 Nanos has repeatedly shown little recognition of the law and his duty to comply with it.
20 With the case at bar, Nanos wrongfully withheld public records obligating Plaintiffs to
21 sue to obtain the records. Nanos misused public-records law by concealing a key
22 shooting detail for weeks. Nanos should have immediately revealed that Lewis was
23 unarmed. Instead, Nanos wrongfully claimed that he did not have to reveal if Lewis
24 was

1 was armed because the incident was still under investigation. It took two weeks for
2 Nanos to publicly disclose that Lewis, who was shot dead, did not have a gun his
3 hand, but rather, a key fob mistaken for a gun. State law does not allow the sheriff to
4 withhold basic facts about a fatal law enforcement encounter simply because an
5 investigation is ongoing. To this date, Sheriff Nanos and Pima County are still in non-
6 compliance with the Supreme Court of the United States *Brady Doctrine* (1963), US
7 Freedom of Information Act (1967), State Sunshine Law (2007), Open Government
8 Act (2007), Open Government Initiative (2009), and Open Government Directives
9 (2009), issued by the United States Department of Justice. With the case at bar,
10 Pima County and Sheriff Nanos have must be held accountable for their conduct and
11 systematic abuse within the legal system.

CONCLUSION:

Count I, Count II, Count III, Count IV, Count V, Plaintiffs' *Monell* claim against Pima County and Sheriff Nanos, and whether Defendants are entitled to qualified immunity must all proceed to trial given there is a genuine issue of material fact requiring a jury or judge to resolve the parties' differing versions of the truth at trial and a battle of experts on a material issue of fact, which cannot be decided at summary judgment as a matter of law.

RESPECTFULLY SUBMITTED this 20th day of March, 2024.

CORONADO LAW FIRM, P.L.L.C.

/s/ Eduardo H. Coronado
Eduardo H. Coronado, Esq.
Attorneys for the Plaintiffs

1 CERTIFICATE OF SERVICE
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5 I hereby certify that on March 20, 2024, I electronically transmitted the attached
6 document to the Clerk's Office using the CM/ECF System for filing and transmitted a
7 Notice of Electronic Filing to:
8

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By: /s/ Casandra Pederson